

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JOHN DUDLEY LAMM

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:10-cv-493-LG-RHW

HEALTH ASSURANCE

DEFENDANT

MEMORANDUM OPINION AND ORDER
DISMISSING THE PLAINTIFF'S COMPLAINT

The Plaintiff was an inmate of the Harrison County Adult Detention Center, Gulfport, Mississippi, at the time he filed in the instant civil action on October 8, 2010. On November 22, 2010, this Court received a letter [9] from Plaintiff providing a change of address, which appeared to be a “free world” address. An order [13] was then entered on December 2, 2010, directing Plaintiff to provide this Court with additional information concerning his claims. The order [13] was mailed to Plaintiff at the new address he furnished on November 22, 2010. Plaintiff filed his response [14] on December 20, 2010. Subsequently, an order [15] was entered on January 25, 2011, directing Plaintiff to provide additional information on or before February 9, 2011, concerning his response [14]. When Plaintiff failed to provide the required information set forth in the order [15] entered on January 25, 2011, an order to show cause [16] was entered on February 25, 2011. Plaintiff was directed to file a response to the order to show cause [16] on or before March 14, 2011. The envelope [17] containing the order to show cause [16] addressed to Plaintiff at his last known address was returned to this Court on March 10, 2011, with a notation by the postal service, “return to sender - not deliverable as addressed - unable to forward.” Plaintiff was warned previously by this

Court in the notice of assignment as well as the orders [8 & 13] entered November 1, 2010, and December 2, 2010, which he received and filed responses [11 & 14] to on November 22, 2010, and December 20, 2010, that his failure to keep this Court informed of his current address or his failure to timely comply with a court order could result in the dismissal of this case.

According to the court record, Plaintiff has failed to keep this Court informed of his current address and he has failed to comply with the order [16] of this Court. Out of an abundance of caution, the Court attempted to locate Plaintiff on the Mississippi Department of Corrections website to no avail. It is apparent from Plaintiff's failure to communicate with this Court concerning his change of address that he lacks interest in pursuing this claim.

This Court has the authority to dismiss an action for Plaintiff's failure to prosecute under Fed.R.Civ.P.41(b) and under its inherent authority to dismiss the action *sua sponte*. See *Link v. Wabash R.R.*, 370 U.S. 626, 629 (1962); *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988). The Court must be able to clear its calendars of cases that remain dormant because of the inaction or dilatoriness of the parties seeking relief, so as to achieve the orderly and expeditious disposition of cases. *Link*, 370 U.S. at 630. Such a "sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars" of the Court. *Id.* at 629-30.

Plaintiff has not provided a forwarding address nor has he contacted this Court since December 20, 2011. The Court concludes that dismissal of this action for

Plaintiff's failure to prosecute under Fed.R.Civ.P.41(b) is proper. Since the Defendant has never been called upon to respond to Plaintiff's pleading, and has never appeared in this action, and since the Court has never considered the merits of Plaintiff's claims, the Court's order of dismissal will provide that dismissal is without prejudice. *See Munday/Elkins Auto. Partners, Ltd. v. Smith*, No. 05-31009, 2006 WL 2852389, at *2 (5th Cir. Oct. 2, 2006).

IT IS THEREFORE ORDERED AND ADJUDGED that Plaintiff's complaint shall be dismissed without prejudice.

A Final Judgment in accordance with this Memorandum Opinion and Order will be entered.

SO ORDERED AND ADJUDGED this the 23rd day of March, 2011.

s/ Louis Guirola, Jr.
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE